

Exhibit B

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EASTMAN KODAK COMPANY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DR SYSTEMS, INC., a California
Corporation

Plaintiff,

v.

EASTMAN KODAK COMPANY,

Defendant.

Case No. 08cv0669 H (BLM)

**EASTMAN KODAK COMPANY'S
OBJECTIONS AND RESPONSES TO DR
SYSTEMS' FIRST SET OF REQUESTS
FOR PRODUCTION (NOS. 1-55)**

EASTMAN KODAK COMPANY,

Counterclaimant,

v.

DR SYSTEMS, INC.,

Counterclaim Defendant.

GENERAL OBJECTIONS

1. The following general objections apply to each document request and shall have the same force and effect as if set forth in full in response to each individually numbered request.

2. Kodak objects to each and every document request to the extent it seeks documents, or purports to impose duties or obligations on Kodak, beyond those required by the

1 Federal Rules of Civil Procedure.

2 3. Kodak objects to Plaintiff's requests to the extent that they seek documents not
3 readily within the scope of Kodak's knowledge, possession, custody, or control. Kodak will
4 search for documents responsive to the requests in those places within its custody or control
5 where it knows or reasonably expects such documents to exist.

6 4. To the extent that any document request may be construed as calling for the
7 identification or production of documents protected from disclosure under the attorney-client
8 privilege, work-product doctrine, or any other applicable privilege, Kodak hereby asserts that
9 doctrine or privilege and objects to the document request on that basis. Kodak will not disclose
10 such information. Any inadvertent disclosure of material protected by the attorney-client
11 privilege, the attorney work product doctrine or any other applicable privilege or protection from
12 discovery does not constitute a waiver, either generally or specifically, with respect to such
13 material or the subject matter thereof, nor is any such inadvertent disclosure intended to be, nor
14 shall it constitute, a waiver of the right to object to any use of such document, or the information
15 contained therein.

16 5. To the extent that any document request calls for the disclosure of confidential,
17 proprietary business information, or information protected as a trade secret, such information will
18 not be disclosed absent a suitable protective order responsive to its legitimate concerns.

19 6. Kodak objects to the document requests to the extent that it would be required to
20 violate any agreement with any third party in order to produce documents in response to the
21 requests.

22 7. Except for the facts explicitly admitted and documents specifically referenced
23 herein, no admission of any nature whatsoever is to be implied or inferred. The fact that any
24 request herein has been answered should not be taken as an admission, or a concession or
25 evidence as to the truth of any facts set forth in the request.

26 8. Kodak's agreement to produce documents responsive to any document request
27 does not constitute an admission or acknowledgement that any such documents actually exist.

28 9. Kodak objects to the requests to the extent that they seek information or

1 documents already accessible to or within the possession, custody or control of Plaintiff.

2 10. Kodak objects to the requests on the grounds that Kodak's investigation and
3 review of documents and things are ongoing. This litigation is in its early stages, and Kodak has
4 responded with information as presently known. Kodak will respond to each request to the best
5 of its present knowledge, but reserves the right to amend, supplement, and/or correct its
6 objections and responses if further information is obtained through investigation and/or
7 discovery. Kodak reserves the right to rely on and use, before or during trial or other hearing, any
8 facts or documents which may be subsequently discovered or obtained as a result of such ongoing
9 discovery and investigation, or which may be adduced at trial.

10 11. Kodak objects to Plaintiff's definitions and instructions to the extent that they are
11 inconsistent with the appropriate Federal Rules of Civil Procedure and the Local Rules of this
12 Court. Kodak will rely on the Federal Rules of Civil Procedure, the Local Rules, and governing
13 case law with respect to the subject definitions, instructions, document requests, and responses
14 thereto.

15 11. Kodak objects to Plaintiff's definition of "Kodak" as overly broad and not
16 reasonably calculated to lead to the discovery of admissible evidence. Kodak further objects to
17 Plaintiff's definition of "Kodak" to the extent that it seeks the production of documents protected
18 by the attorney-client privilege, attorney work product doctrine, or other applicable privilege.

19 **REQUEST FOR PRODUCTION NO. 1:**

20 All documents and things relating to the '811 patent.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

22 Kodak objects to this request to the extent it impermissibly seeks production protected by
23 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
24 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
25 to the extent that the production requested is equally accessible to the requesting party. Kodak
26 further objects to this request to the extent that it seeks production not within the custody, control,
27 or possession of Kodak. Kodak further objects to this request to the extent that it is duplicative of
28 disclosures required by Patent Local Rule 3-2 and the Court's Case Management Conference

1 Order Regulating Discovery and Other Pretrial Procedures.

2 Subject to and without waiving these objections and the foregoing General Objections,
3 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
4 reasonable search.

5 **REQUEST FOR PRODUCTION NO. 2:**

6 All documents and things relating to the subject matter shown, described, or claimed in
7 the '811 patent.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

9 Kodak objects to this request to the extent it impermissibly seeks production protected by
10 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
11 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
12 to the extent that the production requested is equally accessible to the requesting party. Kodak
13 further objects to this request to the extent that it seeks production not within the custody, control,
14 or possession of Kodak. Kodak further objects to this request to the extent that it is duplicative of
15 disclosures required by Patent Local Rule 3-2 and the Court's Case Management Conference
16 Order Regulating Discovery and Other Pretrial Procedures. Kodak further objects to this request
17 on the ground that it is duplicative of other interrogatories, including Interrogatory No. 1. Kodak
18 further objects to this request to the extent that it is premature and calls for speculation on the
19 construction of the scope and meaning of the '811 claim terms. Kodak further objects to this
20 request on the ground that it is vague and ambiguous, especially with regard to the phrase
21 "subject matter shown, described."

22 Subject to and without waiving these objections and the foregoing General Objections,
23 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
24 reasonable search.

25 **REQUEST FOR PRODUCTION NO. 3:**

26 All documents and things relating to the conception, reduction to practice, design,
27 development, manufacture, use, marketing and sale of the embodiments or subject matter shown,
28 described, or claimed in the '811 patent including, but not limited to, product specifications,

1 manufacturing specifications, data books, laboratory notebooks, drawings, schematics and design
2 diagrams.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

4 Kodak objects to this request to the extent it impermissibly seeks production protected by
5 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
6 on the grounds that it is compound. Kodak further objects to this request on grounds that it is
7 overly broad and unduly burdensome. Kodak further objects to this request to the extent that it
8 seeks production no longer within the custody, control, or possession of Kodak. Kodak further
9 objects to this request on the grounds that it is duplicative of disclosures required by Patent Local
10 Rule 3-2 and the Court's Case Management Conference Order Regulating Discovery and Other
11 Pretrial Procedures. Kodak further objects on the grounds of relevance because Kodak has not
12 indicated that it intends to rely upon embodiments of the '811 Patent. Pursuant to Fed. R. Civ. P.
13 33(d), Kodak refers Plaintiff to its Disclosure of Asserted Claims and Preliminary Infringement
14 Contentions, and Document Production Accompanying Disclosure, Section I. Kodak further
15 objects on the ground that this request is duplicative of other Requests, including Request for
16 Production No. 1. Kodak further objects to this request on the ground that it is vague and
17 ambiguous, especially with regard to the phrase "subject matter shown, described."

18 Subject to and without waiving these objections and the foregoing General Objections,
19 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
20 reasonable search.

21 **REQUEST FOR PRODUCTION NO. 4:**

22 All documents that refer or relate to a decision or plan to design, develop, produce,
23 introduce and market any product that Kodak contended or contends is covered by any claim of
24 the '811 patent, including, but not limited to, any marketing plans, forecasts or projections,
25 business plans, presentations, engineering specifications, and engineering project plans.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

27 Kodak objects to this request to the extent it impermissibly seeks production protected by
28 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request

1 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
2 to the extent that it seeks production not within the custody, control, or possession of Kodak.
3 Kodak further objects to this request to the extent that it seeks production not relevant to the
4 claims or defenses at issue in this action in that Kodak has not asserted that any of its products
5 embody one or more claims of the patent in suit. Kodak further objects on the ground that this
6 request is duplicative of other Requests. Kodak further objects to this request on the grounds that
7 it is duplicative of disclosures required by Patent Local Rule 3-2 and the Court's Case
8 Management Conference Order Regulating Discovery and Other Pretrial Procedures.

9 Subject to and without waiving these objections and the foregoing General Objections,
10 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
11 reasonable search.

12 **REQUEST FOR PRODUCTION NO. 5:**

13 All documents and things supporting Kodak's allegations that DR Systems has infringed
14 the '811 patent.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

16 Kodak objects to this request to the extent it impermissibly seeks production protected by
17 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
18 on ground that it is overly broad in that, among other things, it requests documents equally if not
19 more available to Plaintiff and documents in Plaintiff's possession, custody or control. Kodak
20 further objects to this request to the extent that it seeks production not within the custody, control,
21 or possession of Kodak. Kodak further objects to this request to the extent that it is duplicative of
22 disclosures required by the Patent Local Rules, in particular Pat. L.R. 3.1, and the Court's Case
23 Management Conference Order Regulating Discovery and Other Pretrial Procedures. Kodak
24 objects on the grounds that this request is premature to the extent that it seeks information relating
25 to Kodak's final infringement contentions.

26 Subject to and without waiving these objections and the foregoing General Objections,
27 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
28 reasonable search. Pursuant to Fed. R. Civ. P. 33(d), Kodak further refers plaintiff to its

1 Disclosure of Asserted Claims and Preliminary Infringement Contentions, and Document
2 Production Accompanying Disclosure. Kodak's discovery, investigation, and trial preparation are
3 continuing. Kodak reserves the right to amend and/or supplement its objections and responses as
4 further information is obtained through investigation and/or discovery.

5 **REQUEST FOR PRODUCTION NO. 6:**

6 Specimens of each product embodying the subject matter shown, described, or claimed in
7 the '811 patent including, without limitation, products on which the '811 patent was or is marked,
8 products licensed under the '811 patent and products that Kodak contended or contends are
9 covered by any claim of the '811 patent.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

11 Kodak objects to this request to the extent it impermissibly seeks production protected by
12 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
13 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
14 on grounds that it seeks to impose obligations greater than those imposed by the Federal Rules of
15 Civil Procedure. Kodak further objects that this request is not reasonably calculated to lead to the
16 discovery of admissible evidence. Kodak further objects to this request to the extent that it seeks
17 production not within the custody, control, or possession of Kodak. Kodak further objects to this
18 request to the extent that it seeks production not relevant to the claims or defenses at issue in this
19 action in that Kodak has not asserted that any of its products embody one or more claims of the
20 patent in suit. Kodak further objects to this request on the ground that it is vague and ambiguous,
21 especially with regard to the phrase "subject matter shown, described."

22 **REQUEST FOR PRODUCTION NO. 7:**

23 Documents sufficient to identify the names, titles, and current employers of all persons
24 having responsibility for the conception, design, development, manufacture, use, marketing and
25 sale of the subject matter shown, described, or claimed in the '811 patent.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

27 Kodak objects to this request to the extent it impermissibly seeks production protected by
28 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request

1 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
2 to the extent that it seeks production not within the custody, control, or possession of Kodak.
3 Kodak further objects to this request on the grounds that it is duplicative of disclosures required
4 by Patent Local Rule 3-2 and the Court's Case Management Conference Order Regulating
5 Discovery and Other Pretrial Procedures. Kodak further objects on the ground that this request is
6 duplicative of other Requests and Interrogatories. Kodak further objects to this request on the
7 ground that it is vague and ambiguous, especially with regard to the phrase "subject matter
8 shown, described."

9 Subject to and without waiving these objections and the foregoing General Objections,
10 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
11 reasonable search.

12 **REQUEST FOR PRODUCTION NO. 8:**

13 All documents and things relating to any and/or all advertising, business plans, marketing
14 plans or efforts, promotional programs or strategies on the part of Kodak, or on its behalf,
15 concerning any proposed or actual products shown, described, or claimed in the '811 patent.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

17 Kodak objects to this request to the extent it impermissibly seeks production protected by
18 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
19 on grounds that it is overly broad and unduly burdensome. Kodak further objects that this request
20 is not reasonably calculated to lead to the discovery of admissible evidence. Kodak further
21 objects to this request to the extent that it seeks production not within the custody, control, or
22 possession of Kodak. Kodak further objects to this request to the extent that it seeks production
23 not relevant to the claims or defenses at issue in this action in that Kodak has not asserted that any
24 of its products embody one or more claims of the patent in suit. Kodak further objects on the
25 ground that this request is duplicative of other Requests. Kodak further objects to this request on
26 the ground that it is vague and ambiguous, especially with regard to the phrase "any proposed or
27 actual products shown, described."

28 Subject to and without waiving these objections and the foregoing General Objections,

Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 9:

All price lists, product literature, advertisements and sales, marketing, promotional or advertising material relating to any product that Kodak contended or contends are covered by any claim of the '811 patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request to the extent that it seeks production not relevant to the claims or defenses at issue in this action in that Kodak has not asserted that any of its products embody one or more claims of the patent in suit. Kodak further objects to this request on the ground that it is vague and ambiguous, especially with regard to the phrases “any product” and “covered by.”

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 10:

All documents and things relating to the date on which any product embodying the subject matter shown, described or claimed in the '811 patent was first made, used, offered for sale, sold and/or imported.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request on the ground that it is ambiguous, especially with regard to the term “any product.” Kodak

1 further objects to this request to the extent that it seeks production not within the custody, control,
 2 or possession of Kodak. Kodak further objects to this request to the extent that the term “only
 3 product” encompasses DR’s products; documents and things related to DR’s products are more
 4 accessible to Plaintiff than Kodak. Kodak further objects to this request on the grounds that it is
 5 duplicative of disclosures required by Patent Local Rule 3-2 and the Court’s Case Management
 6 Conference Order Regulating Discovery and Other Pretrial Procedures. Kodak further objects on
 7 the ground that this request is duplicative of other Requests. Kodak further objects to this request
 8 on the ground that it is vague and ambiguous, especially with regard to the phrase “subject matter
 9 shown, described.”

10 Subject to and without waiving these objections and the foregoing General Objections,
 11 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
 12 reasonable search.

13 **REQUEST FOR PRODUCTION NO. 11:**

14 All documents and things that relate to disclosures, offers to sell and sale of the subject
 15 matter shown, described or claimed in the ‘811 patent prior to their respective filing dates.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

17 Kodak objects to this request to the extent it impermissibly seeks production protected by
 18 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
 19 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
 20 on the ground that it is compound. Kodak further objects to this request to the extent that it seeks
 21 production not within the custody, control, or possession of Kodak. Kodak further objects to this
 22 request on the grounds that it is duplicative of disclosures required by Patent Local Rule 3-2 and
 23 the Court’s Case Management Conference Order Regulating Discovery and Other Pretrial
 24 Procedures. Kodak further objects to this request on the ground that it is vague and ambiguous,
 25 especially with regard to the terms “disclosures” and “subject matter shown, described.” Kodak
 26 further objects on the ground that this request is duplicative of other Requests.

27 Subject to and without waiving these objections and the foregoing General Objections,
 28 Kodak will produce, or has produced, responsive and non-privileged documents identified after a

1 reasonable search.

2 **REQUEST FOR PRODUCTION NO. 12:**

3 All documents and things that relate to the preparation, filing, prosecution, or maintenance
4 of the '811 patent.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

6 Kodak objects to this request to the extent it impermissibly seeks production protected by
7 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
8 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
9 to the extent that it seeks production not within the custody, control, or possession of Kodak.

10 Kodak further objects to this request to the extent that the production requested is publicly
11 available and equally accessible to the requesting party. Kodak further objects to this request on
12 the grounds that it is duplicative of disclosures required by Patent Local Rule 3-2 and the Court's
13 Case Management Conference Order Regulating Discovery and Other Pretrial Procedures.

14 Kodak further objects on the ground that this request is duplicative of other Requests.

15 Subject to and without waiving these objections and the foregoing General Objections,
16 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
17 reasonable search.

18 **REQUEST FOR PRODUCTION NO. 13:**

19 All patents and patent applications, whether pending or abandoned, United States or
20 foreign, issued to, assigned to or filed by or on behalf of Kodak that relate to or claim priority to
21 the '811 patent, including but not limited to, all predecessor and successor patents and
22 applications.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

24 Kodak objects to this request to the extent it impermissibly seeks production protected by
25 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
26 to the extent that it seeks production not within the custody, control, or possession of Kodak.

27 Kodak further objects to this request to the extent that the production requested is publicly
28 available and equally accessible to the requesting party. Kodak further objects to this request on

1 the grounds that it is duplicative of disclosures required by Patent Local Rule 3-2 and the Court's
2 Case Management Conference Order Regulating Discovery and Other Pretrial Procedures.

3 Kodak further objects on the ground that this request is duplicative of other Requests.

4 Subject to and without waiving these objections and the foregoing General Objections,
5 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
6 reasonable search.

7 **REQUEST FOR PRODUCTION NO. 14:**

8 All documents and things that relate to the preparation, filing, prosecution, or maintenance
9 of all patent applications, whether pending or abandoned, United States or foreign, issued to,
10 assigned to or filed by or on behalf of Kodak that relate to or claim priority to the '811 patent,
11 including but not limited to all predecessor and successor patents and applications.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

13 Kodak objects to this request to the extent it impermissibly seeks production protected by
14 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
15 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
16 to the extent that it seeks production not within the custody, control, or possession of Kodak.
17 Kodak further objects to this request to the extent that the production requested is publicly
18 available and equally accessible to the requesting party. Kodak further objects to this request on
19 the grounds that it is duplicative of disclosures required by Patent Local Rule 3-2 and the Court's
20 Case Management Conference Order Regulating Discovery and Other Pretrial Procedures.
21 Kodak further objects on the ground that this request is duplicative of other Requests, including
22 Requests No. 1 and No. 13.

23 Subject to and without waiving these objections and the foregoing General Objections,
24 Kodak will produce responsive and non-privileged documents identified after a reasonable
25 search.

26 **REQUEST FOR PRODUCTION NO. 15:**

27 All documents and things that in any way tend to refute or support Kodak's contention
28 that the subject matter shown, described, or claimed in the '811 patent is patentable.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak objects to this request on the ground that it is vague and ambiguous with respect to the terms “tend” and “subject matter shown, described.” Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request on the ground that it is premature because the Court has not yet construed the claims of the ‘811 Patent. Kodak further objects to the extent that the Request calls for a legal conclusion and/or expert testimony.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 16:

All documents and things that in any way tend to refute or support Kodak’s contention that claims of the ‘811 patent are valid and enforceable.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak objects to this request on the ground that it is vague and ambiguous with respect to the term “tend.” Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request on the ground that it is premature because the Court has not yet construed the claims of the ‘811 Patent. Kodak further objects to the extent that the Request calls for a legal conclusion and/or expert testimony.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 17:

All documents and things relating to the meaning and/or scope of the claims of the '811 patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that it is premature and calls for speculation on the construction of the scope and meaning of the '811 claim terms. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this Request to the extent that it is premature pursuant to Rule 2.5 of the Patent Local Rules.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, responsive and non-privileged, extrinsic evidence documents identified after a reasonable search, at the time required under the Court's Case Management Conference Order Regulating Discovery and Other Pretrial Procedures and the Patent Local Rules. Kodak has already produced intrinsic evidence documents in its document production accompanying its Disclosure of Asserted Claims and Preliminary Infringement Contentions.

REQUEST FOR PRODUCTION NO. 18:

All prior art to the subject matter shown, described, or claimed in the '811 patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request on grounds that the production requested is publicly available and equally accessible to the requesting party. Kodak further objects to this request on the ground that it is vague and ambiguous, especially with regard to the phrase "subject matter shown, described."

1 Subject to and without waiving these objections and the foregoing General Objections,
 2 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
 3 reasonable search.

4 **REQUEST FOR PRODUCTION NO. 19:**

5 All documents and things relating to any and/or all searches or investigations ever
 6 conducted by or for Kodak to locate prior art relating to the patentability of the subject matter
 7 shown, described, or claimed in the '811 patent and/or the validity and enforceability of the
 8 claims of the '811 patent.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

10 Kodak objects to this request to the extent it impermissibly seeks production protected by
 11 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
 12 on grounds that it is overly broad and unduly burdensome. Kodak further objects that this request
 13 is not reasonably calculated to lead to the discovery of admissible evidence. Kodak further
 14 objects to this request to the extent that it seeks production not within the custody, control, or
 15 possession of Kodak. Kodak further objects to this request on the ground that it is vague and
 16 ambiguous, especially with regard to the phrase "subject matter shown, described."

17 Subject to these objections and the foregoing General Objections, and after a reasonable
 18 investigation, Kodak responds it is presently aware of no responsive non-privileged documents to
 19 this request. Kodak's discovery, investigation, and trial preparation are continuing. Kodak
 20 reserves the right to amend and/or supplement its objections and responses as further information
 21 is obtained through investigation and/or discovery.

22 **REQUEST FOR PRODUCTION NO. 20:**

23 All documents and things that relate to any and/or all studies, analyses, or opinions
 24 concerning the patentability of the subject matter shown, described, or claimed in the '811 patent,
 25 and/or to the validity and enforceability of the claims of the '811 patent.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

27 Kodak objects to this request to the extent it impermissibly seeks production protected by
 28 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request

1 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
2 to the extent that it seeks production not within the custody, control, or possession of Kodak.
3 Kodak further objects to this request on the ground that it is vague and ambiguous, especially
4 with regard to the phrase “subject matter shown, described.”

5 Subject to these objections and the foregoing General Objections, and after a reasonable
6 investigation, Kodak responds it is presently aware of no responsive non-privileged documents to
7 this request. Kodak’s discovery, investigation, and trial preparation are continuing. Kodak
8 reserves the right to amend and/or supplement its objections and responses as further information
9 is obtained through investigation and/or discovery.

10 **REQUEST FOR PRODUCTION NO. 21:**

11 All patents or documents, including printed publications, that show the state of the art
12 relative to the subject matter shown, described, or claimed in the ‘811 patent.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

14 Kodak objects to this request to the extent it impermissibly seeks production protected by
15 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
16 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
17 to the extent that it seeks production not within the custody, control, or possession of Kodak.
18 Kodak further objects to this request to the extent that the production requested is publicly
19 available and equally accessible to the requesting party. Kodak further objects to this request on
20 the ground that it is vague and ambiguous, especially with regard to the phrase “subject matter
21 shown, described.”

22 Subject to and without waiving these objections and the foregoing General Objections,
23 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
24 reasonable search.

25 **REQUEST FOR PRODUCTION NO. 22:**

26 All documents and things relating to assignments, transfers, conveyances, licenses, offers
27 to license, or granting of any interest in or of rights to, the ‘811 patent.

28

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request on the grounds that it is duplicative of disclosures required by Patent Local Rule 3-2 and the Court's Case Management Conference Order Regulating Discovery and Other Pretrial Procedures.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 23:

All documents and things relating to any alleged long-felt need for the subject matter shown, described, or claimed in the '811 patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to the extent that the Request calls for expert testimony. Kodak further objects to this request to the extent that the production requested is publicly available and equally accessible to the requesting party. Kodak further objects to this request on the ground that it is vague and ambiguous, especially with regard to the phrase "subject matter shown, described."

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 24:

All documents and things relating to any and/or all attempts by persons other than Kodak

1 to solve any problems that were allegedly solved by the subject matter shown, described, or
 2 claimed in the '811 patent.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

4 Kodak objects to this request to the extent it impermissibly seeks production protected by
 5 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
 6 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
 7 to the extent that it seeks production not within the custody, control, or possession of Kodak.
 8 Kodak further objects to this request to the extent that the production requested is publicly
 9 available and equally accessible to the requesting party. Kodak further objects to the extent that
 10 the Request calls for expert testimony. Kodak further objects to this request on the ground that it
 11 is vague and ambiguous, especially with regard to the phrase "subject matter shown, described."

12 Subject to and without waiving these objections and the foregoing General Objections,
 13 Kodak states it is presently aware of no responsive non-privileged documents to this request.
 14 Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right
 15 to amend and/or supplement its objections and responses as further information is obtained
 16 through investigation and/or discovery.

17 **REQUEST FOR PRODUCTION NO. 25:**

18 All documents and things relating to the alleged commercial success of the subject matter
 19 shown, described, or claimed in the '811 patent.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

21 Kodak objects to this request to the extent it impermissibly seeks production protected by
 22 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
 23 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
 24 to the extent that it seeks production not within the custody, control, or possession of Kodak.
 25 Kodak further objects to this request to the extent that the production requested is publicly
 26 available and equally accessible to the requesting party. Kodak further objects to this request on
 27 the ground that it is vague and ambiguous, especially with regard to the phrase "subject matter
 28 shown, described."

1 Subject to and without waiving these objections and the foregoing General Objections,
2 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
3 reasonable search.

4 **REQUEST FOR PRODUCTION NO. 26:**

5 All documents and things relating to any nexus between alleged commercial success and
6 the patented features of the subject matter claimed in the '811 patent.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

8 Kodak objects to this request to the extent it impermissibly seeks production protected by
9 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
10 on grounds that it is overly broad and unduly burdensome. Kodak objects to this request on the
11 ground that it is vague and ambiguous with respect to the phrase "nexus." Kodak further objects
12 to this request to the extent that it seeks production not within the custody, control, or possession
13 of Kodak. Kodak further objects on the ground that this request is duplicative of other Requests.
14 Kodak further objects to the extent that the Request calls for expert testimony.

15 Subject to and without waiving these objections and the foregoing General Objections,
16 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
17 reasonable search.

18 **REQUEST FOR PRODUCTION NO. 27:**

19 All documents which evidence the ordinary level of skill in the art for the subject matter
20 shown, described, or claimed in the '811 patent.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

22 Kodak objects to this request to the extent it impermissibly seeks production protected by
23 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
24 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
25 to the extent that it seeks production not within the custody, control, or possession of Kodak.
26 Kodak further objects to this request to the extent that the production requested is publicly
27 available and equally accessible to the requesting party. Kodak further objects to the extent that
28 the Request calls for expert testimony. Kodak further objects to this request on the ground that it

1 is vague and ambiguous, especially with regard to the phrase “subject matter shown, described.”

2 Subject to and without waiving these objections and the foregoing General Objections,
3 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
4 reasonable search.

5 **REQUEST FOR PRODUCTION NO. 28:**

6 All documents and things relating to DR Systems, Inc. and/or any products made, used,
7 offered for sale, sold or imported by or on behalf DR Systems including, without limitation, the
8 Accused Products.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

10 Kodak objects to this request to the extent it impermissibly seeks production protected by
11 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
12 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
13 to the extent that it seeks production not within the custody, control, or possession of Kodak.
14 Kodak further objects to this request to the extent that the production requested is publicly
15 available and/or equally or more accessible to the requesting party.

16 Subject to and without waiving these objections and the foregoing General Objections,
17 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
18 reasonable search.

19 **REQUEST FOR PRODUCTION NO. 29:**

20 All documents that constitute, refer or relate to any comparison between any medical
21 imaging product made, used, imported into the United States, offered for sale or sold by or for
22 DR System and any medical imaging product made, used, offered for sale or sold by or for
23 Kodak.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

25 Kodak objects to this request to the extent it impermissibly seeks production protected by
26 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
27 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
28 to the extent that it seeks production not within the custody, control, or possession of Kodak.

1 Kodak objects on the grounds that this request is premature to the extent that it seeks information
2 relating to Kodak's final infringement contentions. Kodak further objects to this request on the
3 grounds that it is vague and ambiguous, especially with regard to the term "medical imaging
4 product." Kodak further objects to this request on the grounds that it is duplicative of disclosures
5 required by Patent Local Rule 3-1 and the Court's Case Management Conference Order
6 Regulating Discovery and Other Pretrial Procedures. Kodak further objects to this request on the
7 ground that it lacks foundation. Kodak further objects to this Request to the extent that it is
8 premature pursuant to Rule 2.5 of the Patent Local Rules.

9 **REQUEST FOR PRODUCTION NO. 30:**

10 All documents and things relating to Kodak's first knowledge or awareness of products
11 (including, without limitation the Accused Products) that allegedly infringe the '811 patent.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

13 Kodak objects to this request to the extent it impermissibly seeks production protected by
14 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
15 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
16 to the extent that it seeks production not within the custody, control, or possession of Kodak.
17 Kodak further objects to this request to the extent that the production requested is publicly
18 available or equally accessible to the requesting party.

19 Subject to and without waiving these objections and the foregoing General Objections,
20 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
21 reasonable search.

22 **REQUEST FOR PRODUCTION NO. 31:**

23 All documents and things relating to any products (including, without limitation, the
24 accused products) that Kodak contends have infringed or currently infringe the '811 patent.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

26 Kodak objects to this request to the extent it impermissibly seeks production protected by
27 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
28 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request

1 to the extent that it seeks production not within the custody, control, or possession of Kodak.
 2 Kodak further objects to this request to the extent that the Request seeks documents that are
 3 publicly available, equally, or more accessible to the requesting party. Kodak further objects to
 4 this request to the extent that it seeks production not relevant to the claims or defenses at issue in
 5 this action. Kodak objects on the grounds that this request is premature to the extent that it seeks
 6 information relating to Kodak's final infringement contentions. Kodak further objects to this
 7 request to the extent it is duplicative of disclosures required by the Patent Local Rules and the
 8 Court's Case Management Conference Order Regulating Discovery and Other Pretrial
 9 Procedures. Kodak further objects on the ground that this request is duplicative of other
 10 Requests.

11 Subject to and without waiving these objections and the foregoing General Objections,
 12 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
 13 reasonable search. Kodak further refers Plaintiff to its Disclosure of Asserted Claims and
 14 Preliminary Infringement Contentions, and Document Production Accompanying Disclosure.
 15 Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right
 16 to amend and/or supplement its objections and responses as further information is obtained
 17 through investigation and/or discovery

18 **REQUEST FOR PRODUCTION NO. 32:**

19 All documents and things relating to any and/or all analyses, evaluations, tests, studies or
 20 investigations of product that Kodak believed or believes is covered by any claim of the '811
 21 patent.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

23 Kodak objects to this request to the extent it impermissibly seeks production protected by
 24 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
 25 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
 26 to the extent that it seeks production not within the custody, control, or possession of Kodak.
 27 Kodak further objects to this request to the extent that the production requested is publicly
 28 available and equally accessible to the requesting party. Kodak further objects to this request to

1 the extent that it seeks production not relevant to the claims or defenses at issue in this action.
2 Kodak objects on the grounds that this request is premature to the extent that it seeks information
3 relating to Kodak's final infringement contentions. Kodak further objects to this request to the
4 extent it is duplicative of disclosures required by the Patent Local Rules and the Court's Case
5 Management Conference Order Regulating Discovery and Other Pretrial Procedures.

6 Subject to these objections and the foregoing General Objections, and after a reasonable
7 investigation, Kodak responds as follows: Pursuant to Fed. R. Civ. P. 33(d), Kodak refers plaintiff
8 to its Disclosure of Asserted Claims and Preliminary Infringement Contentions, and Document
9 Production Accompanying Disclosure. Kodak's discovery, investigation, and trial preparation are
10 continuing. Kodak reserves the right to amend and/or supplement its objections and responses as
11 further information is obtained through investigation and/or discovery.

12 **REQUEST FOR PRODUCTION NO. 33:**

13 All documents and things relating to litigation or possible litigation with any and/or all
14 third parties regarding the '811 patent.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

16 Kodak objects to this request to the extent it impermissibly seeks production protected by
17 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
18 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
19 to the extent that it seeks production not within the custody, control, or possession of Kodak.
20 Kodak further objects to this request to the extent that the production requested is publicly
21 available and equally accessible to the requesting party. Kodak further objects that this request is
22 not reasonably calculated to lead to the discovery of admissible evidence. Kodak further objects
23 to this request as premature and calling for speculation. Kodak further objects to this request to
24 the extent that it seeks production of documents not relevant to the claims or defenses at issue in
25 this action.

26 Subject to these objections and the foregoing General Objections, and after a reasonable
27 investigation, Kodak states it is presently aware of no responsive non-privileged documents to
28 this request. Kodak's discovery, investigation, and trial preparation are continuing. Kodak

1 reserves the right to amend and/or supplement its objections and responses as further information
2 is obtained through investigation and/or discovery.

3 **REQUEST FOR PRODUCTION NO. 34:**

4 All court filings and pleadings from all previous lawsuits relating to the '811 patent.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

6 Kodak objects to this request to the extent it impermissibly seeks production protected by
7 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
8 on the ground that it lacks foundation, because there have been no previous lawsuits regarding the
9 '811 Patent. Kodak further objects that this request is not reasonably calculated to lead to the
10 discovery of admissible evidence. Kodak further objects to this request to the extent that it seeks
11 production not within the custody, control, or possession of Kodak. Kodak further objects to this
12 request to the extent that the production requested is publicly available and equally accessible to
13 the requesting party. Kodak further objects to this request to the extent that it seeks production
14 not relevant to the claims or defenses at issue in this action.

15 Subject to these objections and the foregoing General Objections, and after a reasonable
16 investigation, Kodak states it is presently aware of no responsive non-privileged documents to
17 this request. Kodak's discovery, investigation, and trial preparation are continuing. Kodak
18 reserves the right to amend and/or supplement its objections and responses as further information
19 is obtained through investigation and/or discovery.

20 **REQUEST FOR PRODUCTION NO. 35:**

21 All documents and things that relate to or otherwise evidence the damages that Kodak
22 contends should be awarded as a result of alleged infringement of the claims of the '811 patent.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

24 Kodak objects to this request to the extent it impermissibly seeks production protected by
25 the attorney-client privilege and/or work-product doctrine. Kodak objects on the grounds that this
26 request is premature. Kodak further objects to this request to the extent that it seeks production
27 not within the custody, control, or possession of Kodak. Kodak further objects to this request to
28 the extent that the production requested is accessible to the requesting party.

1 Subject to and without waiving these objections and the foregoing General Objections,
2 Kodak states that it is not presently aware of any non-privileged documents in its possession,
3 custody or control regarding this request, but will supplement or amend this response if any such
4 non-privileged documents are located.

5 **REQUEST FOR PRODUCTION NO. 36:**

6 Documents and things sufficient to show total monthly and annual sales in units and
7 dollars, unit prices, and unit costs of all products, systems or components allegedly made pursuant
8 to the subject matter shown, described, or claimed in the '811 patent.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

10 Kodak objects to this request to the extent it impermissibly seeks production protected by
11 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
12 on the ground that it lacks foundation. Kodak further objects to this request on grounds that it is
13 overly broad and unduly burdensome. Kodak further objects to this request to the extent that it
14 seeks production not relevant to the claims or defenses at issue in this action in that Kodak has
15 not asserted that any of its products embody one or more claims of the patent in suit. Kodak
16 further objects to this request to the extent that it seeks production not within the custody, control,
17 or possession of Kodak. Kodak further objects to this request on the ground that it is vague and
18 ambiguous, especially with regard to the term "products, systems or components allegedly made
19 pursuant to the subject matter shown, described." Kodak further objects to this request to the
20 extent that the documents requested are equally or more accessible to the requesting party.

21 Subject to and without waiving these objections and the foregoing General Objections,
22 Kodak states it is presently aware of no responsive non-privileged documents to this request.
23 Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right
24 to amend and/or supplement its objections and responses as further information is obtained
25 through investigation and/or discovery.

26 **REQUEST FOR PRODUCTION NO. 37:**

27 Documents and things sufficient to show the monthly and annual net and gross profits for
28 products, systems, or components allegedly made pursuant to the subject matter shown,

described, or claimed in the '811 patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 37:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request to the extent that it seeks production not relevant to the claims or defenses at issue in this action in that Kodak has not asserted that any of its products embody one or more claims of the patent in suit. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request on the ground that it is vague and ambiguous, especially with regard to the term "products, systems, or components allegedly made pursuant to the subject matter shown, described." Kodak further objects to this request to the extent that the documents requested are equally if not more accessible to the requesting party.

Subject to and without waiving these objections and the foregoing General Objections, Kodak states it is presently aware of no responsive non-privileged documents to this request. Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right to amend and/or supplement its objections and responses as further information is obtained through investigation and/or discovery.

REQUEST FOR PRODUCTION NO. 38:

Documents and things sufficient to identify all of Kodak's past and existing purchasers, distributors, or licensees of all products, systems, or components allegedly made pursuant to the subject matter shown, described, or claimed in the '811 patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 38:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on the ground that it lacks foundation. Kodak further objects to this request on the grounds that it is duplicative of disclosures required by Patent Local Rule 3-2 and the Court's Case Management Conference Order Regulating Discovery and Other Pretrial Procedures. Kodak further objects to this request to the extent that it seeks production not relevant to the claims or defenses at issue in

1 this action in that Kodak has not asserted that any of its products embody one or more claims of
2 the patent in suit. Kodak further objects to this request to the extent that it seeks production not
3 within the custody, control, or possession of Kodak. Kodak further objects to this request to the
4 extent that the documents requested are equally if not more accessible to the requesting party.
5 Kodak further objects to this request on the ground that it is vague and ambiguous, especially
6 with regard to the phrase “subject matter shown, described.”

7 Subject to and without waiving these objections and the foregoing General Objections,
8 Kodak states it is presently aware of no responsive non-privileged documents to this request.
9 Kodak’s discovery, investigation, and trial preparation are continuing. Kodak reserves the right
10 to amend and/or supplement its objections and responses as further information is obtained
11 through investigation and/or discovery.

12 **REQUEST FOR PRODUCTION NO. 39:**

13 All documents and things relating to sales or profit projections, forecasts, or estimates for
14 all products, systems, or components allegedly made pursuant to the subject matter shown,
15 described, or claimed in the ‘811 patent.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

17 Kodak objects to this request to the extent it impermissibly seeks production protected by
18 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
19 on the ground that it lacks foundation. Kodak further objects to this request on the grounds that it
20 is duplicative of disclosures required by Patent Local Rule 3-2 and the Court’s Case Management
21 Conference Order Regulating Discovery and Other Pretrial Procedures. Kodak further objects to
22 this request to the extent that it seeks production not relevant to the claims or defenses at issue in
23 this action in that Kodak has not asserted that any of its products embody one or more claims of
24 the patent in suit. Kodak further objects to this request to the extent that it seeks production not
25 within the custody, control, or possession of Kodak. Kodak further objects to this request to the
26 extent that the documents requested are equally if not more accessible to the requesting party.
27 Kodak further objects to this request on the ground that it is vague and ambiguous, especially
28 with regard to the phrase “subject matter shown, described.”

1 Subject to and without waiving these objections and the foregoing General Objections,
2 Kodak states it is presently aware of no responsive non-privileged documents to this request.
3 Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right
4 to amend and/or supplement its objections and responses as further information is obtained
5 through investigation and/or discovery.

6 **REQUEST FOR PRODUCTION NO. 40:**

7 All business plans, strategic plans, periodic budgets, forecasts, projections and long-term
8 financial plans and/or management reports relating to the sales and profitability of any product
9 that Kodak contended or contends are covered by any claim of the '811 patent.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

11 Kodak objects to this request to the extent it impermissibly seeks production protected by
12 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
13 on the ground that it lacks foundation. Kodak further objects to this request on the grounds that it
14 is duplicative of disclosures required by Patent Local Rule 3-2 and the Court's Case Management
15 Conference Order Regulating Discovery and Other Pretrial Procedures. Kodak further objects to
16 this request to the extent that it seeks production not relevant to the claims or defenses at issue in
17 this action in that Kodak has not asserted that any of its products embody one or more claims of
18 the patent in suit. Kodak further objects to this request to the extent that it seeks production not
19 within the custody, control, or possession of Kodak. Kodak further objects to this request to the
20 extent that the documents requested are equally if not more accessible to the requesting party.

21 Subject to and without waiving these objections and the foregoing General Objections,
22 Kodak states it is presently aware of no responsive non-privileged documents to this request.
23 Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right
24 to amend and/or supplement its objections and responses as further information is obtained
25 through investigation and/or discovery.

26 **REQUEST FOR PRODUCTION NO. 41:**

27 Documents sufficient to identify Kodak's past, current, or anticipated market share in the
28 United States for medical imaging products.

RESPONSE TO REQUEST FOR PRODUCTION NO. 41:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request to the extent that the production requested is publicly available and equally accessible to the requesting party. Kodak further objects to this request to the extent that it seeks production not relevant to the claims or defenses at issue in this action. Kodak further objects to this request on the grounds that it is overbroad and burdensome as well as vague and ambiguous with regard the to terms “anticipated market share . . . for medical imaging products.”

REQUEST FOR PRODUCTION NO. 42:

All documents and things relating to Kodak’s efforts or the efforts of Kodak’s licensee(s) to increase market share for its products covered by the technology of the ‘811 patent.

RESPONSE TO REQUEST FOR PRODUCTION NO. 42:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request to the extent that the production requested is equally or more accessible to the requesting party. Kodak further objects to this request to the extent that it seeks production not relevant to the claims or defenses at issue in this action in that Kodak has not asserted that any of its products or its licensee(s)’ products embody one or more claims of the patent in suit.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search. Kodak’s discovery, investigation, and trial preparation are continuing. Kodak reserves the right to amend and/or supplement its objections and responses as further information

1 is obtained through investigation and/or discovery

2 **REQUEST FOR PRODUCTION NO. 43:**

3 All documents and things relating or evidencing a demand or lack thereof for products
4 shown, described, or claimed in the '811 patent.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

6 Kodak objects to this request to the extent it impermissibly seeks production protected by
7 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
8 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request
9 to the extent that it seeks production not within the custody, control, or possession of Kodak.
10 Kodak further objects to this request on the ground that it is vague and ambiguous, especially
11 with regard to the phrase "subject matter shown, described." Kodak further objects to this request
12 to the extent that the documents requested are equally if not more accessible to the requesting
13 party.

14 Subject to and without waiving these objections and the foregoing General Objections,
15 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
16 reasonable search.

17 **REQUEST FOR PRODUCTION NO. 44:**

18 All documents and things relating to the amount of royalties or other payments received
19 by Kodak relating to the sale or license of all products shown, described, or claimed in the '811
20 patent.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

22 Kodak objects to this request to the extent it impermissibly seeks production protected by
23 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
24 on the ground that it lacks foundation. Kodak further objects to this request to the extent that it
25 seeks production not relevant to the claims or defenses at issue in this action in that Kodak has
26 not asserted that any of its products embody one or more claims of the patent in suit. Kodak
27 further objects to this request to the extent that it seeks production not within the custody, control,
28 or possession of Kodak. Kodak further objects to this request on the ground that it is vague and

1 ambiguous, especially with regard to the phrase “subject matter shown, described.”

2 Subject to and without waiving these objections and the foregoing General Objections,
3 Kodak states it is presently aware of no responsive non-privileged documents to this request.
4 Kodak’s discovery, investigation, and trial preparation are continuing. Kodak reserves the right
5 to amend and/or supplement its objections and responses as further information is obtained
6 through investigation and/or discovery.

7 **REQUEST FOR PRODUCTION NO. 45:**

8 All documents and things relating to returns of, complaints, dissatisfaction, negative
9 comments, unfavorable opinions or suggestions for improvement of products shown, described,
10 or claimed in the ‘811 patent.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

12 Kodak objects to this request to the extent it impermissibly seeks production protected by
13 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
14 on the ground that it lacks foundation. Kodak objects to this request on grounds that it is overly
15 broad and unduly burdensome. Kodak further objects to this request to the extent that it seeks
16 production not relevant to the claims or defenses at issue in this action in that Kodak has not
17 asserted that any of its products embody one or more claims of the patent in suit. Kodak further
18 objects to this request to the extent that it seeks production not within the custody, control, or
19 possession of Kodak. Kodak further objects to this request on the ground that it is vague and
20 ambiguous, especially with regard to the phrase “subject matter shown, described.” Kodak
21 further objects to this request to the extent that the documents requested are equally if not more
22 accessible to the requesting party.

23 Subject to and without waiving these objections and the foregoing General Objections,
24 Kodak states it is presently aware of no responsive non-privileged documents to this request.
25 Kodak’s discovery, investigation, and trial preparation are continuing. Kodak reserves the right
26 to amend and/or supplement its objections and responses as further information is obtained
27 through investigation and/or discovery.

28

REQUEST FOR PRODUCTION NO. 46:

All documents referring or relating to the marketability of any product that Kodak contended or contends are covered by any claim of the '811 patent including, but not limited to, any sales projections, consumer surveys, marketing studies, marketing plans, outside consultant surveys, interviews, focus group notes, reports and sales training materials.

RESPONSE TO REQUEST FOR PRODUCTION NO. 46:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on the ground that it lacks foundation. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome. Kodak further objects to this request to the extent that the production requested is publicly available and equally accessible to the requesting party. Kodak further objects to this request to the extent that it seeks production not relevant to the claims or defenses at issue in this action in that Kodak has not asserted that any of its products embody one or more claims of the patent in suit. Kodak further objects to this request to the extent that it seeks production not within the custody, control, or possession of Kodak. Kodak further objects to this request to the extent that the production requested is accessible to the requesting party.

Subject to and without waiving these objections and the foregoing General Objections, Kodak states it is presently aware of no responsive non-privileged documents to this request. Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right to amend and/or supplement its objections and responses as further information is obtained through investigation and/or discovery.

REQUEST FOR PRODUCTION NO. 47:

Documents sufficient to identify any trade show, convention or fair wherein Kodak's medical imaging products were displayed or marketed.

RESPONSE TO REQUEST FOR PRODUCTION NO. 47:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on the ground that it lacks foundation. Kodak further objects to this request on grounds that it is

1 overly broad and unduly burdensome. Kodak further objects to this request to the extent that it
2 seeks production not within the custody, control, or possession of Kodak. Kodak further objects
3 to this request to the extent that the production requested is publicly available, equally or more
4 accessible to the requesting party. Kodak further objects to this request to the extent that it seeks
5 production not relevant to the claims or defenses at issue in this action. Kodak further objects to
6 this request on the grounds that it is vague and ambiguous with regard, especially with regard to
7 the term “medical imaging products.”

8 **REQUEST FOR PRODUCTION NO. 48:**

9 All documents and things relating to Kodak’s marking of or efforts to mark the ‘811
10 patent on products shown, described, or claimed in the ‘811 patent.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

12 Kodak objects to this request to the extent it impermissibly seeks production protected by
13 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
14 on the ground that it lacks foundation. Kodak further objects to this request on grounds that it is
15 overly broad and unduly burdensome. Kodak further objects to this request to the extent that it
16 seeks production not within the custody, control, or possession of Kodak. Kodak further objects
17 to this request to the extent that it seeks information not relevant to the claims or defenses at issue
18 in this action in that Kodak has not asserted that any of its products embody one or more claims
19 of the patent in suit, and has not claimed to have marked any such products. Kodak further
20 objects to this request on the ground that it is vague and ambiguous, especially with regard to the
21 phrase “subject matter shown, described.”

22 Subject to and without waiving these objections and the foregoing General Objections,
23 Kodak states it is presently aware of no responsive non-privileged documents to this request.
24 Kodak’s discovery, investigation, and trial preparation are continuing. Kodak reserves the right
25 to amend and/or supplement its objections and responses as further information is obtained
26 through investigation and/or discovery.

27 **REQUEST FOR PRODUCTION NO. 49:**

28 All documents and things relating to Kodak’s licensees’ marking of or efforts to mark the

1 '811 patent on products shown described, or claimed in the '811 patent.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

3 Kodak objects to this request as duplicative of previous requests for production. Kodak
4 objects to this request to the extent it impermissibly seeks production protected by the attorney-
5 client privilege and/or work-product doctrine. Kodak further objects to this request on the ground
6 that it lacks foundation. Kodak further objects to this request on grounds that it is overly broad
7 and unduly burdensome. Kodak further objects to this request to the extent that it seeks
8 production not within the custody, control, or possession of Kodak. Kodak further objects to this
9 request to the extent that it seeks information not relevant to the claims or defenses at issue in this
10 action. Kodak further objects to this request on the ground that it is vague and ambiguous,
11 especially with regard to the phrase "subject matter shown, described."

12 Subject to and without waiving these objections and the foregoing General Objections,
13 Kodak states it is presently aware of no responsive non-privileged documents to this request.
14 Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right
15 to amend and/or supplement its objections and responses as further information is obtained
16 through investigation and/or discovery.

17 **REQUEST FOR PRODUCTION NO. 50:**

18 All documents and things that constitute, relate, or refer to Kodak's policies, practices, or
19 procedures currently in place or previously in effect with respect to the retention or destruction of
20 documents and electronic information.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 50:**

22 Kodak objects to this request to the extent it impermissibly seeks production protected by
23 the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request
24 on grounds that it is overly broad and unduly burdensome.

25 Subject to and without waiving these objections and the foregoing General Objections,
26 Kodak will produce, or has produced, responsive and non-privileged documents identified after a
27 reasonable search.

REQUEST FOR PRODUCTION NO. 51:

Documents and things sufficient to show Kodak's organizational structure, including but not limited to all organization charts.

RESPONSE TO REQUEST FOR PRODUCTION NO. 51:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Kodak further objects to this interrogatory to the extent that it seeks information not relevant to the claims or defenses at issue in this action.

REQUEST FOR PRODUCTION NO. 52:

All documents and things identified by Kodak's in its answers to DR Systems' interrogatories, or reviewed, referred to, or relied upon by Kodak in preparing its responses to said interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 52:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request to the extent that the production requested is publicly available, equally or more accessible to the requesting party.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search. As stated in Kodak's responses to interrogatories, Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right to amend and/or supplement its objections and responses as further information is obtained through investigation and/or discovery.

REQUEST FOR PRODUCTION NO. 53:

All documents and things reviewed, referred to, or relied upon by Kodak in support of the allegations in its Answer and Counterclaims.

RESPONSE TO REQUEST FOR PRODUCTION NO. 53:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request to the extent that the production requested is publicly available, equally or more accessible to the requesting party. Kodak further objects to this request on grounds that it is overly broad and unduly burdensome.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search. Kodak's discovery, investigation, and trial preparation are continuing. Kodak reserves the right to amend and/or supplement its objections and responses as further information is obtained through investigation and/or discovery.

REQUEST FOR PRODUCTION NO. 54:

All documents and things identified by subject matter in Kodak's Rule 26(a)(1), Fed.R.Civ.P. disclosures.

RESPONSE TO REQUEST FOR PRODUCTION NO. 54:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine.

Subject to and without waiving these objections and the foregoing General Objections, Kodak will produce, or has produced, responsive and non-privileged documents identified after a reasonable search.

REQUEST FOR PRODUCTION NO. 55:

All Kodak annual reports, required financial filings, and other financial statements, including, but not limited to, statements of operations, balance sheets, statements of change in retained earnings and notes thereto, whether prepared for internal or external purposes, for the years 2000 to present.

RESPONSE TO REQUEST FOR PRODUCTION NO. 55:

Kodak objects to this request to the extent it impermissibly seeks production protected by the attorney-client privilege and/or work-product doctrine. Kodak further objects to this request

1 on grounds that it is overly broad and unduly burdensome. Kodak further objects to this
2 interrogatory on grounds that it seeks information not relevant to the claims or defenses at issue in
3 this action.

4 Dated: July 14, 2008

SCHIFF HARDIN LLP

5
6 By: /s/ Stephen M. Hankins

7 STEPHEN M. HANKINS
8 Attorneys for Defendant and
9 Counterclaimant EASTMAN KODAK
10 COMPANY
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all below counsel of record were served the 14th day of July, 2008, with a copy of Eastman Kodak Company's Objections and Responses to DR Systems' First Set of Requests for Production (Nos. 1-55) via e-mail and U.S. Mail:

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